

APPEAL NO. 021502
FILED AUGUST 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 14, 2002. The hearing officer determined that the respondent (attorney) is entitled to reasonable and necessary attorney's fees in the amount of \$817.50. The appellant (claimant) appeals the determination on sufficiency of the evidence grounds. The attorney responded, urging that the appeal be dismissed for failure to comply with, Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(a)(4) and (b) (Rule 143.3(a)(4) and (b)), regarding service on other parties. In the alternative, the attorney urges affirmance.

DECISION

Affirmed.

We first address the attorney's request for dismissal of the appeal. The record indicates that the claimant failed to serve a copy of the request for review on the remaining parties to this proceeding at the time of filing, in contravention of Rule 143.3(a)(4) and (b). The attorney first received a copy of the appeal by facsimile on July 25, 2002, from the clerk of the Appeals Panel. We have said that an appellant's failure to serve an appeal on a party in compliance with Rule 143.3(a) and (b) does not affect the timeliness of the appeal but extends the time for response until service is made. See Texas Workers' Compensation Commission Appeal No. 91120, decided March 30, 1992. Accordingly, we will not dismiss the claimant's appeal but will consider the attorney's response, filed on August 5, 2002, as timely.

The hearing officer did not err in determining that the attorney's fees in the amount of \$817.50 are reasonable and necessary. We review a hearing officer's determination of attorney's fees under an abuse of discretion standard. Texas Workers' Compensation Commission Appeal No. 92481, decided October 21, 1992 (Unpublished). In determining whether there has been an abuse of discretion, the Appeals Panel looks to see whether the hearing officer acted without reference to any guiding rules or principles. Texas Workers' Compensation Commission Appeal No. 951943, decided January 2, 1996, citing Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). Section 408.221 and Rules 152.1 through 152.5 govern fees paid to a claimant's attorney. In view of the evidence presented and the applicable law, we cannot conclude that the hearing officer abused his discretion in approving the disputed attorney's fees.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY, EXECUTIVE DIRECTOR
T.P.C.I.G.A.
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Philip F. O'Neill
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert E. Lang
Appeals Panel
Manager/Judge